

BILL DRAFT REQUEST FROM EXECUTIVE AGENCIES

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # _____

FROM: Division of Mortgage Lending
Agency

VIA: Department of
Administration

TO: Legislative Counsel

I. Intent of Proposed Bill: (Brief summary of intended effect)

The BDR intent is to:

- Set-up an education/recovery fund to finance an education section within the Division, to provide public service announcements and other consumer information and to provide funds for consumers with judgments against bankers and brokers
- Require the Division to approve and administrate continuing education(CE) program,
- Require licensure of Banker agents, including continuing education, pre-licensing requirements and testing,
- Expand the Division's ability to take administrative action against escrow agencies and agents including fines up to \$10,000 per violation and grant escrow agencies 233B appeal rights,

II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)

The general objective of the BDR is to provide for greater consistency in regulation of the industries under the jurisdiction of the Mortgage Lending Division and to enhance protection for consumers.

III. NRS Title, Chapter and Section affected: (If applicable)

NRS Chapters 645A, 645B, 645E, 645F, 692A, 80

IV. Effective Date:

Default (October 1, 2007)

X July 1, 2007

☐ Upon Passage and Approval

☐ Other _____

V. Suggested language: (Optional) (Use continuation sheet if necessary)

See attached

VI. FISCAL NOTE:

Effect on the State

Yes ___X___ No _____ Contains Appropriation _____

Executive Budget _____ Effect Less Than \$2,000 _____

Effect on Local Government

Yes _____ No _X___ Contains Appropriation _____

VII. Name of person to be consulted if more information is needed:

Name: Scott Bice, Commissioner____ Telephone No. (702) 486-0789 _____
Sheila Walther, Supervisory Examiner, (775) 684-7055

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request should be mailed.

Doug Walther, Deputy Director
788 Fairview Drive, Suite 100
Carson City, NV 89701

Signature of head of agency

Date

From: Department of Administration

To: Legislative Counsel

Approved for preparation of bill draft.

Signature, Department of Administration

Sec. 1. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth in section 2, of this Proposed Bill Draft Request.

Sec. 2. *1. If a person offers or provides any of the services of an escrow agency or escrow agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of an escrow agency or escrow agent and, at the time:*

(a) The person was required to have a license pursuant to this chapter or NRS 692A and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter, the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If an escrow agency violates any provision of subsection 1 of NRS 645A.070 and the escrow agency fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a escrow agency to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the escrow agency fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the escrow agency an administrative fine of not more than \$10,000 for each violation;

(b) Suspend or revoke the license of the escrow agency; and

(c) Conduct a hearing to determine whether the escrow agency is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the escrow agency pursuant to NRS 645A.140.

Sec. 3. NRS 645A.090 is hereby amended to read as follows:

1. The Commissioner may refuse to license any escrow agent or agency or may suspend or revoke any license or impose a fine ~~[of not more than \$500 for each violation by entering an order to that effect, with his findings in respect thereto, if upon a hearing],~~ *of not more than \$10,000 for each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, if it is determined that the applicant or licensee:*

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by an escrow agency, the Commissioner may impose upon the escrow agency an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the

escrow agency, whether or not acting as such:

- (a) In the case of an escrow agency, is insolvent;
- (b) ***Does not conduct his business in accordance with law including, but not limited to, NRS Chapter 107; NRS Chapter 598; Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500; the Fair Debt Collection Practices Act; the Fair Credit Reporting Act; the Privacy of Consumer Financial Act*** or has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;
- (c) In the case of an escrow agency, is in such a financial condition that he cannot continue in business with safety to his customers;
- (d) Has committed fraud in connection with any transaction governed by this chapter ***or has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;***
- (e) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;
- (f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant or licensee possesses ***and which, if submitted by him, would have rendered the escrow agency ineligible to be licensed pursuant to the provisions of this chapter;***
- (g) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(j) Has been convicted of a felony relating to the practice of escrow agencies or any misdemeanor of which an essential element is fraud, ***misrepresentation or moral turpitude;***

(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;

(l) Has commingled the money of others with his own or converted the money of others to his own use, ***or does not maintain at all times sufficient money in their trust accounts to pay all money due or owing to all clients.;***

(m) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(n) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction; or

(o) In the case of an escrow agency, has:

(1) Failed to maintain adequate supervision of an escrow agent; or

(2) Instructed an escrow agent to commit an act which would be cause for the

revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action for committing such an act under instruction by the escrow agency.

(3) Has employed a person as an escrow agent or authorized a person to be associated with the escrow agency as an escrow agent at a time when the escrow agent knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(a) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of escrow agents or any crime involving fraud, misrepresentation or moral turpitude; or

(b) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

3. For each violation committed by an escrow agent, the Commissioner may impose upon the escrow agent an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the escrow agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has committed fraud in connection with any transaction governed by this chapter or has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice

(c) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated

agent of a principal in the course of the escrow business;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the escrow agent possesses and which, if submitted by him, would have rendered the escrow agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of escrow agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has repeatedly violated the policies and procedures of the escrow agency with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist

another person to commit such a violation.

4. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

5. The Commissioner may suspend any license for not more than 30 days, pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist.

6. The commissioner may refuse to issue ***an escrow agency or escrow agent's [a]*** license to ~~[any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.]~~ ***the applicant if the applicant or any 25% owner, general partner, officer or director of the applicant:***

(a) Has failed to demonstrate a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an escrow agency or agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(b) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of an escrow agency or escrow agent; or any crime involving fraud, misrepresentation or moral turpitude.

(c) Has made a false statement of material fact on his application.

(d) Has had a license that was issued pursuant to the provisions of this chapter or chapter 692A of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(e) Has had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(f) Has violated any provision of this chapter or a regulation adopted pursuant thereto or an order of the Commissioner.

7. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 4. NRS 645A.230 is hereby amended to read as follows: ~~[Any person who violates:~~

~~1. NRS 645A.160, 645A.210 or 645A.220 is guilty of a gross misdemeanor].~~ *A person, or any general partner, director, officer, agent or employee of a person, who violates any provision of, NRS 645A.160, 645A.210 or 645A.220, or NAC 645A.020, 645A.030 or 645A.050 inclusive, is guilty of:*

(a) A misdemeanor if the amount involved is less than \$250;

(b) A gross misdemeanor if the amount involved is \$250 or more but less than \$1,000; or

(c) A category D felony if the amount involved is \$1,000 or more, and shall be punished as provided in NRS 193.130.

2. Any other provision of this chapter is guilty of a misdemeanor.

3. In addition to any other penalty, if a person is convicted of or enters a plea of nolo contendere to a violation described in subsection 1, the court shall order the person to pay:

(a) Court costs; and

(b) Reasonable costs of the investigation and prosecution of the violation.

Sec. 5. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth in sections 6 to 14, inclusive, of this Proposed Bill Draft Request.

Sec.6. *A provider that wishes to offer courses to meet the educational requirements for licensure under chapter 645B of NRS must apply to the Commissioner annually for approval on a form prescribed by the Division and pay a fee of not more than \$500 for designation as an approved provider and a fee of not more than \$100 for each class the provider offers. The application must include, without limitation:*

- 1. The name and address of the provider;*
- 2. A description of its facilities;*
- 3. Information concerning the provider's ownership, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;*
- 4. A list of the instructors;*
- 5. A list of the courses to be offered and a topical syllabus for each;*
- 6. The allotment of time for each course or subject;*
- 7. A proposed schedule of courses for 1 year;*
- 8. The titles, authors and publishers of all required textbooks;*

9. A copy of each examination to be used and the correct answer for each question;

10. A statement of:

- (a) A description of the provider's business;*
- (b) The fees to be charged;*
- (c) The locations of classes;*
- (d) The number of quizzes and examinations;*
- (e) The grading systems, including the methods of testing and standards of grading;*
- (f) The requirements for attendance; and*
- (g) The location of the students' records; and*

11. A statement as to whether the provider or any instructor employed by the provider has been disciplined by any governmental agency in this or any other state.

12. An approval of a provider or course for continuing education is effective for 1 year after the original approval or a renewal.

13. Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the provider shall make available to the Division all records requested which are necessary to the review.

Sec.7. 1. If a provider has applied for and received the Commissioner's approval to offer courses to meet requirements for licensure under chapter 645B of NRS, the provider shall, as a condition of the approval:

- (a) Maintain a record of each student's attendance and certification in any of those courses for 4 years after his enrollment and shall have such records open to*

inspection by the Division, upon its request, during the provider's business hours.

(b) Upon closing business notice the Division where records will be maintained for the retention period.

(c) Upon a student or Division's request, furnish the Division a transcript of the record of his grades and attendance.

Sec. 8. 1. Within 15 days after the occurrence of any material change in the information provided by the provider in its application pursuant to Section 6 of this Proposed Bill Draft Request which would affect its approval by the Commissioner, the provider shall give the Division written notice of that change.

2. To qualify for annual renewal of approval by the Commissioner, a provider must submit to the Commissioner before July 1:

(a) An application for renewal on a form provided by the Division, declaring that the provider has met all applicable requirements of this chapter and describes on that form any changes within the company or in any course offered by the provider. An application for renewal must be filed at least 2 weeks before the previous approval expires. If the provider does not timely file the application for renewal, the provider must apply for an original approval; and

(b) Payment of a fee of not more than \$100 to be renewed as an approved provider and a fee of not more than \$50 for each course for which renewal is being sought.

3. The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course since the course was last approved or re-approved.

4. The Commissioner may deny renewal of approval to any provider that does not meet the standards required by this chapter.

5. Within 60 days after a decision is made to deny renewal of approval, the Commissioner must give written notice of the decision and the basis for that decision by certified mail to the last known address of the provider.

6. Each of the following acts and conditions is a ground for the Commissioner to withdraw or refuse to renew its approval of a course:

(a) The curriculum or instruction, as shown by audits or evaluations, is of poor quality.

(b) The violation of any provision of this chapter relating to continuing education.

(c) The course is not taught within the last period for which the course is approved.

(d) The provider of the course has made a false statement or has presented any false information in connection with an application for the approval of the course, the renewal of such approval or the approval of the provider.

(e) The provider or any official or instructor employed by the provider has refused or failed to comply with any provision of this chapter or chapter 645B of NRS.

(f) The provider of the course or any official or instructor employed by the provider has provided false or incorrect information in connection with any report the provider or instructor is required to submit to the Commissioner.

(g) The provider of the course has engaged in a pattern of consistently cancelling scheduled courses.

(h) The provider of the course has remitted to the Commissioner in payment for

required fees a check which was dishonored by a bank.

(i) An instructor employed by the provider of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter.

(j) A court of competent jurisdiction has found the provider of the approved course or any official or instructor employed by the provider to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation:

(1) Prohibiting discrimination on the basis of disability;

(2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or

(3) Requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(k) The provider of the course or any official or instructor employed by the provider has been disciplined by the Commissioner or any other occupational licensing agency in this State or any other jurisdiction.

(l) The provider of the course or any official or instructor employed by the provider has collected money for an educational course but has refused or failed to provide the promised instruction.

7. A licensee or organization who is the sponsor of an approved course is subject to disciplinary action pursuant to this chapter for any dishonest, fraudulent or improper conduct by the licensee, or an instructor of the approved course employed

by the licensee, in connection with activities related to the approved course.

Sec. 9. 1. An instructor must have written approval from the Division before teaching an approved course.

2. An applicant for approval as an instructor must apply on a form prescribed by the Division and pay a fee of not more than \$100. The fee and approval allows the instructor to teach multiple classes.

3. The Division may deem a person unsuitable as an instructor if the person:

(a) Has been disciplined by the Division:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to the mortgage industry in this or any other state.

4. A person may be approved as an instructor to teach an approved course if:

(a) He has:

(1) A bachelor's degree or a more advanced degree, plus at least 2 years of full-time experience, in the field in which he will be providing instruction; or

(2) Teaching experience of at least 75 hours in the field in which he will be providing instruction within the 3 years immediately preceding the date of his application for approval plus at least 3 years of full-time experience in that field; or

(3) At least 6 years of full-time experience in the field in which he will be providing instruction; or

(4) Any combination of at least 6 years of college-level course work or full-time

experience in the field in which he will be providing instruction;

(b) He has a good reputation for honesty, integrity and trustworthiness; and

(c) He submits to the Division satisfactory documentation of his qualifications and a resume outlining his experience, education and teaching experience in the field in which he will be providing instruction.

5. The Division shall periodically review and evaluate each approved instructor.

Sec. 10. 1. The Commissioner may withdraw the approval of an instructor who:

(a) Does an inadequate job of teaching the subject matter of a course as evidenced by an audit conducted by the Division.

(b) Has been determined in any administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to the mortgage industry.

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, any crime involving fraud, deceit, misrepresentation or moral turpitude; or

(d) Engages in inappropriate behavior in the classroom as evidenced by an audit conducted by the Division.

2. Before withdrawing approval of the instructor of a course, the Commissioner must notify the provider of the course of his intent to withdraw approval of the instructor. The notice must include the specific reasons upon which the Commissioner is basing his decision to withdraw the approval of the instructor. Not later than 30 days after the date on which he receives the notice, a provider may provide a written response to the Commissioner that clearly sets forth the reasons why the approval of the instructor should not be withdrawn and outlining any corrective measures that the provider will undertake. After the 30-day period has

elapsed, the Commissioner shall review the notice and any response submitted by the provider and shall:

- (a) Withdraw approval of the instructor;*
- (b) Allow the instructor to remain approved if certain specific enumerated conditions are met; or*
- (c) Allow the continued approval of the instructor.*

If the Commissioner decides to withdraw approval of the instructor, the withdrawal of approval of the instructor becomes effective upon the mailing of the Commissioner's decision to the provider of the course taught by the instructor by certified mail, return receipt requested, to the provider's last known business address.

3. If the Commissioner withdraws approval of an instructor, the Division shall give credit to a student for completing the course if the student began the course before the provider received written notice of the withdrawal of approval of the instructor.

Sec.11. A provider which conducts courses approved by the Commissioner:

- 1. May employ as instructors of those courses only persons who meet the qualifications set forth in Section 9 of this Proposed Bill Draft Request.*
- 2. Shall limit non-certificated guest lecturers who are experts in the related fields to a total of one-half of the instructional hours per approved course.*
- 3. Shall include a statement that the provider is approved by the Commissioner on all advertisements of the provider.*

Sec. 12. 1. If the Commissioner determines, whether pursuant to an audit or

otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Commissioner shall notify the provider of the course of his intent to withdraw approval of the course. The notice must include the specific reasons upon which the Commissioner is basing his decision to withdraw approval of the course. Not later than 30 days after the date on which he receives the notice, the provider may provide a written response to the Commissioner that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the provider will undertake. After the 30-day period has elapsed, the Commissioner shall review the notice and any response submitted by the provider and:

(a) Withdraw approval of the course;

(b) Allow the course to remain approved if certain specific enumerated conditions are met; or

(c) Allow the continued approval of the course.

If the Commissioner decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the Commissioner's decision to withdraw approval to the provider by certified mail, return receipt requested to the provider's last known business address.

2. If the Commissioner withdraws approval of a course, the Division shall give credit to a student for completing the course if the student began the course before the provider received written notice of the withdrawal of approval of the course.

Sec. 13. A provider approved by the Commission shall not make any misrepresentation in its advertising about any course of instruction which it offers to

fulfill requirements for licensing under this chapter.

Sec. 14. *The Division may adopt reasonable regulations clarifying or defining:*

(a) Uniform and reasonable standards of instruction to be observed by providers, including standards for distance education and student evaluations of courses:

(b) Courses of instruction required by the Division in determining an applicant for licensure's fitness to receive an original mortgage broker, mortgage agent's license or serve as a qualified employee or to renew a license or serve as a qualified employee and the required content of these courses.

(c) Designate approved organizations to sponsor non-recurring special courses offered for the educational requirements for licensure under chapter 645B and outline responsibilities and liabilities of sponsors.

(d) Any other regulations deemed necessary by the Commissioner to establish and maintain compliance with the provisions of NRS 645B.051 and NRS 645B.430.

Sec. 15. NRS 645B.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, *and sections 6 to 14, inclusive, of this Proposed Bill Draft Request* have the meanings ascribed to them in those sections.

Sec. 16. NRS 645B.0125 is hereby amended to read as follows:

1. "Mortgage agent" means a natural person who:

(a) Is an employee or independent contractor of a mortgage broker who is required to be licensed pursuant to this chapter; and

(b) Is authorized by the mortgage broker to engage in, on behalf of the mortgage broker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage broker, to be licensed as a mortgage broker pursuant to this chapter.

2. The term includes any person who processes any loan for the mortgage broker on a contract basis.

3. The term does not include a person who:

- (a) Is licensed as a mortgage broker;
- (b) Is a general partner, officer or director of a mortgage broker; or
- (c) Performs only clerical or ministerial tasks for a mortgage broker.

Sec. 17. NRS 645B.0127 is hereby amended to read as follows:

1. "Mortgage broker" means a person who, directly or indirectly:

- (a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;
- (b) Holds himself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;
- (c) Holds himself out as being able to make loans secured by liens on real property;
- (d) Holds himself out as being able to buy or sell , ***or act as an agent for any person in an attempt to buy or sell*** notes secured by liens on real or
- (e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.

2. The term does not include:

(a) A person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.

(b) *An institutional investor including, but not limited to, banks, insurance companies and governmental agencies who purchases closed loans, loan portfolios or servicing rights for loans originated by a mortgage broker licensed pursuant to chapter 645B or a person exempt from the provisions of NRS chapter 645B.*

Sec. 18. NRS 645B.050 is hereby amended to read as follows:

1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1, ***or has failed to provide statements required pursuant to NRS 645B.085 or pay any fees or assessments related to NRS 645B.060, NRS 645F.180 or NRS 645F.290,*** to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of \$200; and

(e) All information required to complete the reinstatement, *including statements required pursuant to NRS 645B.085 and payment of any fees or assessments due the Division by the licensee.*

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, \$1,500 for the principal office and \$40 for

each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, \$1,000 for the principal office and \$60 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, \$200.

(b) To renew a certificate of exemption, \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, increase any fee set forth in this section if the Commissioner determines that such an increase is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any increase in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 19. NRS 645B.051 is hereby amended to read as follows:

1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least ~~10~~ 20 hours of certified courses of

continuing education *in accordance with subsections 3 and 4* during the 24 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least ~~10~~ 20 hours of certified courses of continuing education *in accordance with subsections 3 and 4* during the 24 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the course was taken, may be used to satisfy a requirement set forth in this section for the next consecutive 12-month period.

3. As used in this section, “certified course of continuing education” means a course of continuing education *certified by the Commissioner* which relates to the mortgage industry or mortgage transactions, *and which is taught by a provider and an instructor approved by the Commissioner. The term also includes any courses pertaining to the mortgage industry which are taught by Division employees.*

~~—(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~—(b) Any organization designated for this purpose by the Commissioner by regulation.~~

4. A licensee may receive credit for a certified course of continuing education:

(a) Not more than once if he teaches the certified course of continuing education; or

(b) For any course for which the licensee, as determined by the Commissioner, completed at least 90 percent of the work required for the course within the immediately preceding 24 month period if he has not received credit for completing the same course within that period.

5. At least once during each 24-month period, the licensee must complete a certified course of continuing education that includes:

(a) Five hours of instruction in law and ethics; and

(b) Five hours of instruction in federal and state law.

Sec. 20. NRS 645B.060 is hereby amended to read as follows:

1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt any regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(c) ~~[Conduct]~~ ***Except as otherwise provided in subsection 4, conduct*** an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the

results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

(d) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary and proper for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(e) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(f) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner is not required to conduct the annual examination

described in paragraph (c) of subsection 2 if the mortgage broker:

(a) Received a positive rating, as determined by the Commissioner, in the last annual examination;

(b) Has not had an adverse change in financial condition as evidenced by the financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division against the mortgage broker that resulted in an administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or NRS 645B.175 or arrange loans funded by private investors.

Sec. 21. NRS 645B.085 is hereby amended to read as follows:

1. Except as otherwise provided in this section, not later than ~~90~~ 120 days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175,

those accounts must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 22. NRS 645B.189 is hereby amended to read as follows:

1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. A mortgage broker shall not include in any advertisement:

(a) The name, trade name, logo, or tagline of another lender or broker in a solicitation for mortgage services directed to a consumer without the consent of the other lender or broker.

(b) The name of another lender or broker or a name similar to that of another lender or broker in a solicitation for mortgage services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(1) The broker or lender's sponsorship, affiliation, connection, or association with the broker using the name.

(2) The broker or lender's approval or endorsement of the person using the name or ~~the~~ broker's services or products.

(c) A consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer.

~~[6]~~ 7. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 23. NRS 645B.670 is hereby amended to read as follows:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000, if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, *may require that the mortgage broker, or a person acting as such, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore,* the Commissioner may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision

of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$10,000, *may require that the mortgage agent, or person acting as such, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore* may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 24. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 33, inclusive, of this act.

Sec. 25. ***1. Each advertisement that a mortgage banker uses in carrying on his business must comply with the requirements of:***

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices;
and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

2. A mortgage banker shall not include in any advertisement:

(a) The name, trade name, logo, or tagline of another lender in a solicitation for mortgage services directed to a consumer without the consent of the other lender.

(b) The name of another lender or a name similar to that of another lender in a solicitation for mortgage services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(1) The lender's sponsorship, affiliation, connection, or association with the banker using the name.

(2) The lender's approval or endorsement of the banker using the name or the banker's services or products.

(c) A consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer.

Sec. 26. 1. "Mortgage agent" means a natural person who:

(a) Is an employee or independent contractor of a mortgage banker who is required to be licensed pursuant to this chapter; and

(b) Is authorized by the mortgage banker to engage in, on behalf of the mortgage banker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage banker, to be licensed as a

mortgage banker pursuant to this chapter.

2. The term includes any person who processes any loan for the mortgage banker on a contract basis.

3. The term does not include a person who:

(a) Is licensed as a mortgage banker;

(b) Is a general partner, officer or director of a mortgage banker; or

(c) Performs only clerical or ministerial tasks for a mortgage banker.

Sec. 27. 1. Except as provide in subsection 2 of this section, a person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to section 28 of this Proposed Bill Draft Request. The license issued pursuant to section 28 of this Proposed Bill Draft Request is effective upon the date that the mortgage agent files the required forms and fees with the Division, however the license is conditional until such time as the Division has completed the investigation of the applicant and has found that the applicant meets the standards prescribed in section 28 of this Proposed Bill Draft Request.

2. A mortgage agent working for a banker pursuant to subsection 2 of this section is subject to disciplinary action prescribed in NRS 645E.670.

3. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 28. 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than \$185.

2. An application for a license as a mortgage agent must:

(a) Be verified;

(b) State the name and residential address of the applicant;

(c) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(d) Include two complete sets of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(e) Include a verified statement from the mortgage banker with whom the applicant will be associated that expresses the intent of that mortgage banker to associate the applicant with the mortgage banker and to be responsible for the activities of the applicant as a mortgage agent; and

(f) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application complies with the applicable requirements of this chapter;

and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(2) Has not had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications to the Commissioner.

4. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. The Commissioner shall deny a license as a mortgage agent to any person who has been convicted of, or entered a plea of nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance or any crime involving fraud, misrepresentation or moral turpitude in a court in this State, the United States or any foreign jurisdiction. The person remains ineligible for the issuance of the license until 3 years after:

- (a) The person pays any fine or restitution ordered by the court; or*
- (b) The expiration of the period of the parole, probation or sentence of the person, whichever is later.*

Sec. 29. 1. A license as a mortgage agent issued pursuant to Section 28 of this Proposed Bill Draft Request expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

- (a) An application for renewal;*
- (b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and*
- (c) A renewal fee set by the Commissioner of not more than \$170.*

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

- (a) An application for renewal;*
- (b) The fee required to renew the license pursuant to this section; and*
- (c) A reinstatement fee of not more than \$75.*

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.

4. To change the licensee with whom the mortgage agent is associated, a

person must pay a fee of not more than \$10.

5. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for next consecutive 12-month period.

Sec. 30. 1. A person licensed as a mortgage agent pursuant to the provisions of Section 28 of this Proposed Bill Draft Request may not be associated with or employed by more than one mortgage banker or broker at the same time.

2. A mortgage banker shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage banker as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to Section 28 of this Proposed Bill Draft Request.

3. If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later 30 calendar days after the date of termination:

(a) Deliver to the mortgage agent or send by certified mail to the last known residential address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

(b) Deliver or send by certified mail to the Division:

(1) The license or license number of the mortgage agent;

(2) A written statement of the circumstances surrounding the termination; and

(3) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to paragraph (a).

4. If the Division receives notification that a mortgage agent has associated with a different licensee than the licensee of record with the Division, the statements pursuant to subsection 3 of this section are not required. The mortgage agent's association with the prior licensee will be automatically terminated upon receipt of the change of licensee notification.

Sec. 31. *1. The Division shall ascertain by written examination that the applicant has an appropriate knowledge and understanding of those subjects which commonly and customarily apply to the mortgage industry.*

2. The Division may hire a professional testing organization to create, administer or score the written examination or perform all of those functions.

3. The Commissioner may adopt regulations necessary to carry out the provisions of this section, including without limitation, regulations specifying the content of the test, scoring criteria, acceptance of a comparable tests administered by national organizations or waiver of testing requirements for individuals meeting experience requirements.

Sec. 32. *1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645E.280, to renew a license as a mortgage banker:*

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 20 hours of certified courses of continuing education in accordance with subsections 3 and 4

during the 24 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee or originates mortgage loans on behalf of the licensee attended at least 20 hours of certified courses of continuing education in accordance with subsections 3 and 4 during the 24 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12 month period, but not needed to satisfy a requirement set forth in this section for the 12 month period in which the course was taken, may be used to satisfy a requirement set forth in this section for the next consecutive 12 month period.

3. As used in this section, "certified course of continuing education" means a course of continuing education certified by the Commissioner which relates to the mortgage industry or mortgage transactions, and which is taught by a provider and an instructor approved by the Commissioner. The term also includes any courses pertaining to the mortgage industry which are taught by Division employees.

4. A licensee may receive credit for a certified course of continuing education:
(a) Not more than once if he teaches the certified course of continuing education; or

(b) For any course for which the licensee, as determined by the Commissioner, completed at least 90 percent of the work required for the course within the immediately preceding 24 month period if he has not received credit for completing

the same course within that period.

5. At least once during each 24-month period, the licensee must complete a certified course of continuing education that includes:

(a) Five hours of instruction in law and ethics; and

(b) Five hours of instruction in federal and state law.

Sec. 33. 1. A course of continuing education is not a certified course of continuing education unless:

(a) The course consists of at least 2 hours of education through distance learning or instruction in a classroom;

(b) The provider of the course issues a certified copy of the record of attendance, record of completion of the course or, if the provider is a college or university, a transcript to the person who attended the course that sets forth:

(1) The name of the provider of the course;

(2) The name of the person who attended the course;

(3) The number of hours of instruction;

(4) The date of completion of the course, if the course was provided through distance learning, or the dates of attendance, if the course was provided through instruction in a classroom;

(5) The title of the course;

(6) A statement that the course meets the requirements to be a certified course of continuing education as provided in this section and NRS 645B.051;

(7) The signature of a person who is authorized to sign on behalf of the provider of the course; and

(8) If an examination is conducted, an indication of whether the person who attended the course passed or failed the examination; and

(c) If the provider of the course is a professional organization, the course is not restricted to members of the professional organization.

2. The Division shall accept a record or transcript issued in accordance with paragraph

(b) of subsection 1 for the purpose of renewal or reinstatement of a license.

3. A provider of a course shall keep a copy of a record or transcript issued in accordance with paragraph (b) of subsection 1 for at least 3 years after the date of the completion of a course.

Sec. 34. NRS 645E.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645B.130, inclusive, *and sections 23 to 33, inclusive, of this Proposed Bill Draft Request* have the meanings ascribed to them in those sections.

Sec. 35 NRS 645E.100 is hereby amended to read as follows:

1. "Mortgage banker" means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his own money; and

(2) Does not engage in any other act or transaction described in the definition of

"mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and

(2) Does not engage in any other act or transaction described in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

For the purposes of this section, a person does not make a loan secured by a lien on real property using his own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.

3. The term does not include an institutional investor including, but not limited to, banks, insurance companies or governmental agencies who purchase closed loans, loan portfolios or servicing rights on loans originated by a mortgage banker licensed pursuant to NRS chapter 645E or a person exempt from the provisions of NRS chapter 645E.

Sec. 36. NRS 645E.280 is hereby amended to read as follows:

1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter,

(b) The fee required to renew the license pursuant to this section; and

(c) The information required pursuant to Section 32 of this Proposed Bill Draft Request.

2. If the licensee fails to submit any item required pursuant to subsection 1, ***or has***

failed to provide statements required pursuant to NRS 645E.360 or pay any fees or assessments related to NRS 645E.300, NRS 645F.180 or NRS 645F.290 to the

Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (a) An application for renewal that complies with the requirements of this chapter;
- (b) The fee required to renew the license pursuant to this section,
- (c) A reinstatement fee of \$200; and

(d) All information required to complete the reinstatement, including statements required pursuant to NRS 645E.360 and payment of any fees or assessments due the Division by the licensee.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

- (a) An application for renewal that complies with the requirements of this chapter; and
- (b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

- (a) An application for renewal that complies with the requirements of this chapter;
- (b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of \$100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, \$1,500 for the principal office and \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, \$1,000 for the principal office and \$60 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, \$200.

(b) To renew a certificate of exemption, \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 37. NRS 645E.620 is hereby amended to read as follows:

1. Whether or not a complaint has been filed, the Commissioner may investigate a mortgage banker or other person if, for any reason, it appears that:

(a) The mortgage banker is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(b) The person is offering or providing any of the services of a mortgage banker or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage banker without being licensed or exempt from licensing pursuant to the provisions of this chapter; or

(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage banker or other person has engaged in any conduct or committed any violation described in subsection 1, the Commissioner may:

(a) Advise the ~~[district attorney of the county in which the conduct or violation occurred]~~ **Attorney General** and the ~~[district attorney]~~ **Attorney General** shall cause the appropriate legal action to be taken against the mortgage banker or other person to enjoin the conduct or the operation of the business or prosecute the violation; and

(b) Bring a civil action to:

(1) Enjoin the mortgage banker or other person from engaging in the conduct, operating the business or committing the violation; and

(2) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.

3. If the ~~[Commissioner]~~ **Attorney General** brings a civil action pursuant to subsection 2, the district court of any county of this state is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and

may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:

(a) The court may issue any temporary restraining orders as may appear to be just and proper;

(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and

(c) The ~~Commissioner~~ **Attorney General** may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:

(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and

(2) Testify and give evidence concerning the conduct complained of in the petition.

Sec. 38. NRS 645E.670 is hereby amended to read as follows:

1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000, if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this

chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$10,000, *may require that the licensee, or person acting as a mortgage banker, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore,* may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false

representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

(p) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest

business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. For each violation committed by a mortgage agent or a qualified employee, the Commissioner may impose upon the mortgage agent or qualified employee an administrative fine of not more than \$10,000, may require that the licensee, or person acting as a mortgage agent, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore, may suspend, revoke or place conditions upon his license or ability to act as a qualified employee, or may do both, if the mortgage agent or qualified employee, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent or qualified employee knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent or qualified employee

possesses and which, if submitted by him, would have rendered the mortgage agent or qualified employee ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage banker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

(k) Has compensated, directly or indirectly, coerced, or intimidated an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security in relation to an application for a mortgage loan.

Sec. 39. NRS Chapter 645F is hereby amended by adding thereto the provisions set

forth in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request.

Sec. 40. *As used in Sections 41 to 50, inclusive, of this Proposed Bill Draft Request “Fund” means the Mortgage Education, Research and Recovery Fund.*

Sec. 41. *1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue Fund.*

2. A balance of not less than \$500,000 must be maintained in the Fund, to be used for satisfying claims as provided in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request, inclusive, against persons licensed under NRS 645B and NRS 645E, or who should have been license pursuant to those chapters at the time of the transaction giving rise to the claim. Any balance over \$500,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner, for the following:

a. Establishment and maintenance of an education section within the Division of Mortgage Lending to administer an education program for licensees as defined in NRS chapter 645B & NRS chapter 645E.

b. Mortgage education and research, including providing classes of continuing education.

c. Provide consumer awareness public service announcements and publications.

d. The Commissioner may adopt any regulation necessary to carry out the provisions of this section.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

Sec. 42. *1. Upon application for or renewal of every office of a mortgage broker, mortgage banker and upon the application or renewal of a mortgage agent's license, the licensed mortgage broker, mortgage banker and mortgage agent shall pay in addition to the original or renewal fee, a fee of not more than \$20 for mortgage education, research and recovery. The additional fee must be deposited in the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately for credit to the Mortgage Education, Research and Recovery Fund, and must be used solely for the purposes provided in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request.*

2. Persons holding exemption certificates need not contribute to the Fund.

Sec. 43. *1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any person licensed under NRS 645B and NRS 645E, or who should have been license pursuant to those chapters at the time of the transaction giving rise to the claim, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than \$30,000 per judgment. The liability of the Fund does not exceed \$100,000 for any person licensed pursuant to NRS 645B & NRS 645E or who should have been license pursuant to those chapters at the time of the transaction giving rise to the claim, whether he is licensed as a limited-liability company,*

partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.

2. A person who is licensed pursuant to this chapter may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.

3. A copy of the:

(a) Petition;

(b) Judgment;

(c) Complaint upon which the judgment was entered; and

(d) Writ of execution which was returned unsatisfied, must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.

4. Upon the hearing on the petition, the petitioner must show that:

(a) He is not the spouse of the debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of Sections 40 to 50, inclusive, of this Proposed Bill Draft Request.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to NRS 645B or NRS 645E.

(d) A writ of execution has been issued upon the judgment and that no assets of

the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.

(f) He has made reasonable efforts to recover damages from each and every judgment debtor.

(g) The petition has been filed no more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

5. The provisions of this section do not apply to persons exempt from licensing pursuant to NRS Chapters 645B or 645E.

Sec. 44. *1. Whenever the court proceeds upon a petition as provided in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.*

2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of Sections 40 to 50, inclusive, of this Proposed Bill Draft Request.

3. The Commissioner may, subject to court approval, compromise a claim based

upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.

Sec. 45. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of Sections 40 to 50, inclusive, of this Proposed Bill Draft Request, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request.

Sec. 46. If the Commissioner pays from the Fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensee, his license issued pursuant to chapters 645B & 645E of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license of the mortgage broker, mortgage banker or mortgage agent may not be reinstated and no other license may be granted to him pursuant to NRS 645B or NRS 645E until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

Sec. 47. 1. Whenever claims are filed against the Fund which total more than the

maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.

2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.

3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.

4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed. Any sums received by the Division pursuant to Sections 40 to 50, inclusive, of this Proposed Bill Draft Request must be deposited in the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately for credit to the Mortgage Education, Research and Recovery Fund. The Division may transfer Funds from unallocated reserves to establish the Fund and to cover shortages in the Fund. Nothing in this section obligates nor mandates the Division to make these transfers from unallocated reserves. If the fees collected in excess of the mandated \$500,000 are not sufficient to cover the costs associated with the provisions of Section 37, subsection (2) (a) through (d) of this Proposed Bill Draft Request, those costs may be paid from unallocated reserves.

Sec. 48. *When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.*

Sec. 49. *The failure of a person to comply with any of the provisions of Sections 40 to 50, inclusive, of this Proposed Bill Draft Request, shall constitute a waiver of any rights hereunder.*

Sec. 50. *Nothing contained in Sections 40 to 50, inclusive, of this Proposed Bill Draft Request, limits the authority of the Commission to take disciplinary action against a licensee or against persons required to have a license pursuant to NRS 645B or NRS 645E and the person did not have such a license for a violation for any of the provisions of NRS 645B or NRS 645E, or of the rules and regulations of the Commission. Nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of NRS 645B or NRS 645E or the rules and regulations promulgated thereunder.*

4. *The Commissioner shall administer the Fund for Recovery of Administrative Settlement Costs. Any interest or income earned on the money in the Fund must be credited to the Fund after deducting any applicable charges. Any claims against the Fund must be paid as other claims against the State are paid.*

Sec. 51. 1. Except as provided in Sections 2 and 3, the transitory provisions of this act relating to the requirements for the issuance or renewal of a license as a mortgage broker,

mortgage agent or mortgage banker apply only to a license that is issued or renewed on or after October 1, 2007.

2. The sections of this proposed Bill Draft Request pertaining to licensure requirements for agents associated with a mortgage banker becomes effective on October 1, 2008.

3. Sections creating new educational requirements become effective on July 1, 2008. All courses and course providers who are approved as of July 1, 2007 are not required to obtain approval pursuant to the amendatory provisions of this proposed Bill Draft Request until July 1, 2008, but the Division may issue approvals for other courses and providers at anytime after July 1, 2007.